

CA24N  
IA 11  
87357

## Small Business Incubators



Ontario

Ministry of  
Municipal Affairs

Bernard Grandmaître  
Minister

Eric M. Fleming  
Deputy Minister (Acting)



Additional copies of this and other Ontario Government publications are available from:

The Ontario Government Bookstore, 880 Bay St., Toronto for personal shopping. Out-of-town customers write to Publications Services Section, 5th Floor, 880 Bay St., Toronto M7A 1N8. Telephone (416) 965-6015. Toll free long distance 1-800-268-7540, in area code 807 dial 0-Zenith 67200. Hearing impaired call: (416) 965-5130 or toll-free 1-800-268-7095. Mastercard and Visa accepted. Cheques and money orders payable to the Treasurer of Ontario. Prepayment required.

ISSN: 0831-4403

Price: \$1.00

Copyright © 1987, Queen's Printer for Ontario

# Small Business Incubators




Ontario

Ministry of  
Municipal Affairs

Bernard Grandmaître  
Minister

Eric M. Fleming  
Deputy Minister (Acting)



Digitized by the Internet Archive  
in 2024 with funding from  
University of Toronto

<https://archive.org/details/31761118900885>



## MUNICIPAL AMENDMENT ACT, 1986

This bulletin highlights the recent amendments to the Municipal Act contained in Bill 79 which received Royal Assent on July 7, 1986.

The Municipal Amendment Act, 1986 amended the Municipal Act to enable municipalities to develop programs and establish small business incubator facilities to encourage the growth of small businesses.

Section 112 of the Municipal Act previously prohibited municipalities from granting bonuses to assist any manufacturing business or other industrial or commercial enterprise. The re-enactment of section 112 under the Municipal Amendment Act, 1986, continues this general prohibition, and sets out four types of financial assistance that are specifically prohibited.

The legislation also enacted a new section of the Municipal Act, - section 112a. This new section will permit municipalities to establish programs to counsel small businesses in the municipality, and to encourage the establishment and growth of new small businesses through the development of incubator facilities.

This bulletin summarizes the new legislation, and briefly explains how municipalities may assist small businesses under the new provisions. Because it is only a summary, this bulletin should be read in conjunction with the Municipal Amendment Act, 1986.

Copies of the Act are available from:

In person:      Ontario Government Bookstore  
880 Bay Street  
Toronto, Ontario  
M7A 1N8

By Mail:        Ministry of Government Services  
Publications Centre  
5th Floor  
880 Bay Street  
Toronto, Ontario  
M7A 1N8



## TABLE OF CONTENTS

	Page
<b>INTRODUCTION</b>	
BACKGROUND . . . . .	1
THE NEW LEGISLATION . . . . .	1
HOW MUNICIPALITIES CAN GET INVOLVED . . . . .	2
Limitations . . . . .	3
<b>SUMMARY OF THE AMENDMENTS</b>	
<b>RESTRICTIONS ON BONUSING</b>	
General Bonusing Prohibition . . . . .	5
Exemption for Community Improvement . . . . .	5
<b>SMALL BUSINESS PROGRAMS AND INCUBATOR FACILITIES</b>	
Small Business Counselling . . . . .	6
Community Small Business Centres/Incubator Facilities . . . . .	6
Land Acquisition and Leasing . . . . .	6
Grants to Corporations . . . . .	6
Provision of Goods and Chattels, Personnel . . . . .	7
Assistance at Less Than Market Value . . . . .	7
<b>ADMINISTRATIVE STRUCTURES</b>	
Non-Profit Corporations . . . . .	8
Local Boards . . . . .	8
<b>REGULATIONS/OTHER REQUIREMENTS</b>	
Limit on Municipal Spending . . . . .	10
Definition of a Small Business . . . . .	10
Other Requirements . . . . .	10



## 2) Enables Municipalities to Establish Incubator Facilities

Under the new section 112a, councils, with Provincial approval, may encourage and assist the initial growth of small businesses by:

- a) providing assistance to non-profit corporations established to develop small business incubator facilities;
- b) operating small business incubators through a local board of the municipality;
- c) operating small business incubators directly; and
- d) providing funds, land, buildings, low-cost space, as well as municipal staff and equipment for the use of eligible small businesses and non-profit corporations.

Councils may also offer counselling services to all local small businesses, without obtaining Provincial approval.

## HOW MUNICIPALITIES CAN GET INVOLVED

Municipalities interested in providing assistance to small businesses under the new legislation may do so in one of two ways.

### 1) The Ministry of Industry, Trade and Technology - Community Small Business Centres Program

Under this program, Provincial funds have been provided to establish a number of small business incubator facilities throughout the province. Three of those facilities (in Brantford, London and the Region of Waterloo) are joint provincial-municipal ventures, in which Provincial funding has augmented local contributions of funding or land and building space.

At present, this program is fully subscribed. However, enquiries concerning the Ministry's Community Small Business Centres Program may still be directed to:

The Manager  
Small Business Advice and Counsel  
Ministry of Industry, Trade and Technology  
7th floor, Hearst Block  
900 Bay Street  
Toronto, Ontario M7A 2E1



## 2) The Ministry of Municipal Affairs - Municipal Proposals

Proposals for municipal expenditures on small business incubator facilities outside of the Community Small Business Centres Program should be forwarded to the Minister of Municipal Affairs. They will then be reviewed by the Ministry of Municipal Affairs and the Ministry of Industry, Trade and Technology using the same criteria used to evaluate proposals submitted for the Community Small Business Centres Program. The emphasis in both cases will be on the demonstration of economic feasibility, as well as projections of numbers of new businesses and jobs created. If a municipal proposal is approved, an Order in Council will be issued by Cabinet authorizing the expenditure of municipal funds on those small business programs specified in the Order.

### Limitations

When considering submission of a proposal to either Ministry, municipalities should keep the following limitations in mind.

- 1) The incubator facilities are intended to accommodate new small business start-ups. The regulations accompanying the legislation therefore state that to be eligible for municipal assistance under the Municipal Act, a small business must have less than 100 employees.
- 2) Any agreement between a municipality and the Province will specify that an incubator tenant must have been a resident of the local area for at least one year before becoming a tenant. The extent of the local area will also be set out in the agreement. The purpose of this requirement is to ensure that municipalities will not attempt to entice businesses in other areas of the province to relocate.
- 3) The regulations set a \$5 per capita limit on municipal spending for small business programs under the Act. This limit ensures that excessive municipal funds will not be jeopardized in the implementation of such programs. However, on-going and normal municipal costs such as building maintenance and advice to small businesses are exempt from this limit.

### SUMMARY OF THE AMENDMENTS

The Municipal Amendment Act, 1986, repealed section 112 of the Municipal Act, replacing it with a revised section 112 and a new section 112a. The changes to the legislation are summarized under the following headings:

- I. Restrictions on Bonusing;
- II. Small Business Programs and Incubator Facilities;
- III. Administrative Structures; and
- IV. Regulations.



## **I. RESTRICTIONS ON BONUSING - SECTION 112**

### **1) General Bonusing Prohibition - Subsection 112(1)**

The new section 112, which essentially restates the previous section 112, prohibits the granting of a bonus by a municipality to a manufacturing business or other industrial or commercial enterprise. In addition to this general prohibition, subsection 112(1) sets out the following specific limitations on municipal assistance to business:

- a) A council shall not assist any manufacturing interest or industrial or commercial enterprise, either directly or indirectly.
- b) Four types of municipal assistance are specifically prohibited:
  - (i) giving or lending any property of the municipality, including money;
  - (ii) guaranteeing borrowing;
  - (iii) leasing or selling any property of the municipality at below fair market value; and
  - (iv) giving a total or partial exemption from any levy, charge or fee.

This list is not intended to be all-encompassing. Other forms of assistance may also constitute bonusing as set out in section 112. Municipalities contemplating providing assistance to the private sector are advised to obtain legal advice before making any commitments.

### **2) Exemption for Community Improvement - Subsection 112(2)**

Subsection 112(2) specifically exempts a Provincially approved municipal community improvement project under section 28 of the Planning Act, 1983 from the provisions of subsection 112(1). Any municipal expenditures for such projects are not considered bonusing, and are not affected by the enactment of this new legislation.

## II. SMALL BUSINESS PROGRAMS AND INCUBATOR FACILITIES - SECTION 112a

While section 112 maintains the general restriction on granting bonuses, section 112a allows municipalities to provide selected types of assistance to eligible small businesses. (To be eligible for assistance, businesses must meet the eligibility criteria set out under "Regulations/Other Requirements" on page 10 of this bulletin.)

### 1) Small Business Counselling - Subsection 112a(1)

A municipality may provide for the establishment of a counselling service to small businesses operating or proposing to operate in the municipality. Counselling services would include many of the types of assistance presently offered by municipalities, such as providing information on potential business locations within the municipality, and giving advice on how to start a new business.

### 2) Community Small Business Centres/Incubator Facilities - Subsections 112a(2),(3)

Under subsection 112a(3), a municipality may establish an incubator facility through participation in the Ministry of Industry, Trade and Technology's Community Small Business Centres Program. Or, with the approval of the Provincial Cabinet under subsection 112a(2), a municipality may develop its own small business incubator facility - either directly or through a board or non-profit corporation - or contribute to a non-profit corporation established by another party.

### 3) Land Acquisition and Leasing - Clauses 112a(4)(a),(c).

For the purposes of establishing a small business incubator referred to above, a municipality may acquire land and erect or improve buildings or structures, and lease that land or building space to an eligible small business.

### 4) Grants to Corporations - Clause 112a(4)(b)

A municipality may make grants to non-profit corporations created to establish small business incubators. The amount of any such grant must fall within the maximum amount prescribed by the regulations (see page 10). Grants may not be made directly to small businesses.



5) Provision of Goods and Chattels, Personnel - Clauses 112a(4)(e),(f)

- a) A municipality may sell, lease, or otherwise make available for the use of an eligible small business or non-profit corporation any municipal goods and chattels. These may include such items as office equipment, vehicles, furniture, machinery, and any other movable municipal property.
- b) A municipality may also make available to any eligible small business or non-profit corporation the services of any of the employees of the municipality.

6) Assistance at Less Than Market Value - Subsections 112a(4),(6)

a) Available Assistance

Under subsection 112a(6), municipalities may provide eligible businesses occupying incubator facilities and non-profit corporations administering small business incubators with the following types of assistance at less than market value:

- (i) a lease of real property;
- (ii) a sale, lease or other disposition of municipal goods and chattels; and
- (iii) the use of municipal goods and chattels or the services of municipal employees.

b) Restrictions

This provision ceases to apply to an eligible small business at the end of thirty-six (36) months following the day it first occupies premises leased to it under section 112a. By that time, a business should be able to pay market value for goods, services, and rental accommodation either in the incubator or in other commercial premises. There is no such time limitation on assistance to a non-profit corporation that is operating an incubator facility for use by small businesses.

Under subsection 112a(4), any assistance provided to small businesses under section 112a is also subject to:

- i) the regulations; and
- ii) the terms and conditions set out in any agreement with the Ministry of Industry, Trade and Technology, or in any Cabinet Order in Council.

### III. ADMINISTRATIVE STRUCTURES

A municipality may operate a Community Small Business Centre or incubator facility directly, or through a non-profit corporation or local board.

#### 1) Non-Profit Corporations - Clauses 112a(4)(d),(h),(i), Subsection (5)

Under clause 112a(4)(d), a municipality may enter into leases (and other agreements related to the establishment and operation of an incubator facility) with a non-profit corporation created to encourage the establishment and growth of small businesses in the municipality. Where such a corporation leases any building or structure from a municipality, subsection 112a(5) specifies that the corporation shall use the building or structure to provide leased premises to eligible small businesses.

If the municipality wishes, under clause 112a(4)(i) it may apply for letters patent incorporating a municipal non-profit corporation under the Corporations Act. The creation of such a corporation is subject to the approval of the Minister of Municipal Affairs, to ensure that the powers of such a body do not exceed those of council. This provision provides municipalities with a half-way measure between direct council or local board management and the type of arms-length relationship involved in assisting non-profit corporations established by others.

The municipality may also appoint one or more of the directors of such a municipal non-profit corporation, or any private non-profit corporation established for the same purpose (subsection 112a(4)(h)).

#### 2) Local Boards

##### (a) Establishment - Clause 112a(4)(g)

Under section 112a, a municipality may establish a local board to administer any incubator facility established by the municipality, or in which the municipality is participating. Such a board shall have the following characteristics.

##### (b) Legal Status - Clauses 112a(7)1,4,8

The board shall be established as a corporate body by a by-law of council. Upon the coming into force of the by-law, all of the powers, rights, authorities and privileges conferred and the duties imposed on council by section 112a, the regulations, and any agreement entered into with the province under section 112a, shall be exercised by the board, subject to such limitations as council, through the by-law, may provide. There is one exception to the above provision. The power, right, authority and privilege of the council to raise money by the issue of debentures or otherwise for the acquisition of lands or the construction of buildings shall not be transferred to the local board.



## 2) Local Boards (continued)

### (c) Number and Qualifications of Members - Clauses 112a(7)1,2

The number of board members shall be determined by council. Any person who is qualified to be elected as a member of the council of the municipality is eligible for appointment to the board.

### (d) Term of Office - Clause 112a(7)3

Board members shall hold office until the expiration of the term of the council that appointed them, and until their successors are appointed. Members are eligible for reappointment for more than one term.

### (e) Finances - Clauses 112a(7)5,6,7

- (i) The board must submit to council, estimates of its requirements for the current year at the time and in the form prescribed by council. During the course of the year, the issuance of any sum of money to the board for the conduct of its responsibilities must be requested by the board and approved by council.
- (ii) When a disbursement to the board is approved by council, the treasurer of the municipality shall, upon receipt of the approved requisition, pay out the approved amount to the board.
- (iii) On or before the 1st day of March in each year, the board must submit to council its annual report for the preceding year. This report must include a complete audited and certified financial statement of its affairs, a balance sheet and a revenue and expenditure statement.
- (iv) The municipal auditor shall be the board's auditor. All books, documents, transactions, minutes, and accounts of the local board shall be open to the auditor's inspection at all times.

### (f) Abolition - Clause 112a(7)9

Upon the repeal of the by-law that established the board, the board ceases to exist. The by-law may be repealed by council at any time.

When a board is abolished, its undertakings, documents, assets and liabilities are assumed by the municipality.

#### IV) REGULATIONS/OTHER REQUIREMENTS

##### 1) Regulations

###### a) Limit on Municipal Spending

Under Ontario Regulation 686/86, 1986, the maximum amount that may be spent by a municipality on the establishment of an incubator facility and any other programs administered under section 112a of the Municipal Act is \$5 per person based on the latest census made by the assessor under the Assessment Act.

###### b) Definition of a Small Business

For the purposes of section 112a of the Municipal Act, a small business is defined in the regulations as a business which has less than 100 employees. Only businesses which meet this requirement are eligible for assistance under the Act.

##### 2) Other Requirements

- a) Incubator facilities established either under the Community Small Business Centres Program or via the Cabinet approval route are intended to serve new small business start-ups.
- b) The principal owner of the business must have been situated in the local area for at least one year.
- c) A municipality establishing an incubator facility, either directly or through a local board or non-profit corporation, must obtain the approval of the Ontario Municipal Board if:
  - i) debentures are issued by the municipality, or
  - ii) the municipality commits to the raising of funds in subsequent years, thereby incurring a debt payable beyond the term of the present council,for the purpose of establishing that facility.



## BULLETIN SERIES

Following is a list of available publications:

### Administration

1	WITHDRAWN FROM CIRCULATION	20	WITHDRAWN FROM CIRCULATION
2	WITHDRAWN FROM CIRCULATION	21	WITHDRAWN FROM CIRCULATION
3	WITHDRAWN FROM CIRCULATION	22	WITHDRAWN FROM CIRCULATION
4	WITHDRAWN FROM CIRCULATION	23	Training Opportunities for Staff in Small Municipalities (\$1)
5	WITHDRAWN FROM CIRCULATION		
6	Bargaining Information (\$1)	24	WITHDRAWN FROM CIRCULATION
7	Drafting Municipal By-Laws (\$1)	25	WITHDRAWN FROM CIRCULATION
8	Municipal Insurance (\$1)	26	Recruiting--I. Planning the Process (\$1)
9	WITHDRAWN FROM CIRCULATION	27	Recruiting--II. The Right Person for the Job (\$1)
10	Labour Relations--The Organizing Process (\$1)	28	Recruiting--III. Advertising (\$1)
11	Procedure By-Law (\$1)	29	Recruiting--IV. The Interview (\$1)
12	Dismissal (\$1)	30	The Interpretation Act (\$1)
13	Labour Relations--Components of a Collective Agreement (\$1)	31	The Statutory Powers Procedure Act (\$1)
14	WITHDRAWN FROM CIRCULATION	32	WITHDRAWN FROM CIRCULATION
15	WITHDRAWN FROM CIRCULATION	33	WITHDRAWN FROM CIRCULATION
16	WITHDRAWN FROM CIRCULATION	34	WITHDRAWN FROM CIRCULATION
17	Council Committees (\$1)	35	Job Descriptions: Make Them Simple and Useful (\$1)
18	Liability Protection (\$1)	36	The Provincial Legislative Process (\$1)
19	Summary of 1978 Legislation Respecting Remuneration and Expenses (\$1)		

- |    |  |    |                                      |
|----|--|----|--------------------------------------|
| 37 | Municipal Real Estate--<br>Inventory (\$1)             | 56 | By-Law Indexing (\$1) *              |
| 38 | <b>WITHDRAWN FROM CIRCULATION</b>                      | 57 | Small Business Incubators *<br>(\$1) |
| 39 | Administering the Pay<br>Structure (\$1)               |    |                                      |
| 40 | Energy Conservation in<br>Ontario Municipalities (\$1) |    |                                      |
| 41 | <b>WITHDRAWN FROM CIRCULATION</b>                      |    |                                      |
| 42 | A Guide to The Employment<br>Standards Act (\$1)       |    |                                      |
| 43 | Job Evaluation (\$1)                                   |    |                                      |
| 44 | The Provincial Offences<br>Act (\$1)                   |    |                                      |
| 45 | <b>WITHDRAWN FROM CIRCULATION</b>                      |    |                                      |
| 46 | Records-Retention By-laws (\$1)                        |    |                                      |
| 47 | By-law Enforcement--An<br>Administrative View (\$1)    |    |                                      |
| 48 | Amendments to the Municipal<br>Elections Act (\$1)     |    |                                      |
| 49 | The Municipal Conflict of<br>Interest Act, 1983 (\$1)  |    |                                      |
| 50 | Issues in Capital Decision-<br>Making (\$1)            |    |                                      |
| 51 | Keeping the Public Informed<br>(\$1)                   |    |                                      |
| 52 | Affirmative Action (\$1)                               |    |                                      |
| 53 | Municipal Tendering<br>Common Practices (\$1)          |    |                                      |
| 54 | The Municipal Tax Sales<br>Act (\$1)                   |    |                                      |
| 55 | Amendments to the Municipal<br>Elections Act (\$1)     |    |                                      |

\* Also available in French



**MANAGEMENT ADVISORY PUBLICATIONS (MAP)**

	\$
Records Management	1.00
Using Computers	4.50
Directory of Municipal Computers and Applications in Ontario Municipalities	10.00
* Joint Services--Five Case Studies	5.00
** Performance Measurement in Municipalities (winner of Municipal Officers Association Excellence Award)	5.00
Municipal Operating Budgets	5.00
Managing Capital Spending	2.00
Microcomputers in Small Municipalities: A Guide	6.00
Microcomputers in Small Municipalities: A Workbook	6.00
Microcomputers in Small Municipalities: Case Studies	6.00
Microcomputers in Small Municipalities: A Catalogue	6.00
Microcomputers in Larger Municipalities: A Catalogue	6.00
How To Borrow Long-Term	6.00
* When and How to Use Consultants	10.00
* Municipal Councillor's Manual	5.00
* The Municipal Audit	10.00
* Also available in French	

### **Financial Procedures:**

- F.1 Cash Management in Municipalities (\$1)
- F.2 Bank Reconciliation Procedures for Municipalities (\$1)
- F.3 Municipal Investments (\$1)
- F.4 Zero-Base Budgeting (\$1)
- F.5 Reserves, Reserve Funds, Allowances and Other Special Funds (\$1)
- F.6 Property Taxation--Billing and Collection (\$1)
- F.7 Calendarized Budgets (\$1)
- F.8 Fixed Asset Record Keeping (\$1)

### **Financial Publications**

Financial Disclosure to the Public--A Code for Municipalities in Ontario (\$2)

Municipal Financial Reporting Handbook (\$15)

Basic Accounting Package "BACPAC" (\$15)

Prices subject to change without notice

Additional copies of this and other Ontario Government publications are available from:

The Ontario Government Bookstore, 880 Bay St., Toronto for personal shopping. Out-of-town customers write to Publications Services Section, 5th Floor, 880 Bay St., Toronto M7A 1N8. Telephone (416) 965-6015. Toll free long distance 1-800-268-7540, in area code 807 dial 0-Zenith 67200. Hearing impaired call: (416) 965-5130 or toll-free 1-800-268-7095. Mastercard and Visa accepted. Cheques and money orders payable to the Treasurer of Ontario. Prepayment required.



For more information, write or call any of the field offices of the Municipal Operations Division. They are located at these addresses.

**CAMBRIDGE**

150 Main Street  
Cambridge (Ontario)  
N1R 6P9  
(519) 622-1500

**GUELPH**

147 Wyndham St. N.  
Guelph (Ontario)  
N1H 4E9  
(519) 836-2531

**LONDON**

495 Richmond St.  
London (Ontario)  
N6A 5A9  
(519) 438-7255

**NORTH BAY**

347 Sherbrooke St.  
North Bay (Ontario)  
P1B 2C1  
(705) 476-4300

**ORILLIA**

15B Matchedash St. N.  
Orillia (Ontario)  
L3V 4T4  
(705) 325-6144

**TORONTO**

11th Floor  
777 Bay Street  
Toronto (Ontario)  
M5G 2E5  
(416) 585-7205

**OSHAWA**

74 Simcoe St. S.  
Oshawa (Ontario)  
L1H 4G6  
(416) 571-1515

**KINGSTON**

1055 Princess St.  
Kingston (Ontario)  
K7L 5T3  
(613) 545-4310

**OTTAWA**

244 Rideau St.  
Ottawa (Ontario)  
K1N 5Y3  
(613) 566-3711

**SUDBURY**

430 Notre-Dame Avenue  
2nd Floor  
Sudbury (Ontario)  
P3E 5K7  
(705) 675-4343

**THUNDER BAY**

435 James St. S.  
C.P. 5000  
Thunder Bay (Ontario)  
P7C 5G6  
(807) 475-1621

Any questions or comments regarding the contents of this publication may be addressed to the Ministry at the above Toronto address and telephone number.

